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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Joe Hand Promotions Incorporated, No. CV-24-00993-PHX-ROS
10 Plaintiff,
11 v.
12 Taco Spot III LLC, et al.,
13 Defendants.
14

ORDER

15 Before the Court is Plaintiffs' Motion for Attorneys' Fees ("Motion") (Doc. 24,
16 "Mot.") seeking **\$4,385.00** in fees and costs. For the following reasons, the Court will
17 grant the Motion and award fees in the full amount.

18 **BACKGROUND**

19 Plaintiff filed this suit for violations of two provisions of the Communications Act
20 of 1934, 47 U.S.C. §§ 553 and 605 against Defendants Taco Spot III LLC and Jorge Ruiz.
21 (Doc. 1). Defendants were properly served (Docs. 12, 17) but failed to answer or otherwise
22 participate in the action. The Court granted default judgment against Defendants in the
23 amount of \$7,350.00. (Doc. 22).

24 **ATTORNEYS' FEES**

25 **I. Entitlement and Eligibility to Fees**

26 Plaintiff requests \$3,210.00 in attorneys' fees and \$1,175.00 in costs in accordance
27 with Fed. R. Civ. P. 54, LRCiv 54.2, and 47 U.S.C. § 605(e)(3)(B)(iii). Section 605
28 provides, "[t]he court shall direct the recovery of full costs, including awarding reasonable

1 attorneys' fees to an aggrieved party who prevails." 47 U.S.C. § 605(e)(3)(B)(iii). Because
 2 Plaintiff is the prevailing party under § 605, it is eligible for, and entitled to, an award of
 3 fees.

4 **II. Reasonableness of Requested Award**

5 While the Telecommunications Act provides for a grant of attorneys' fees, "the
 6 amount of the award is within the discretion of the court," *Houser v. Matson*, 447 F.2d 860,
 7 863 (9th Cir. 1971). Courts "employ the 'lodestar' method to determine a reasonable
 8 attorney's fees award." *Kelly v. Wengler*, 822 F.3d 1085, 1099 (9th Cir. 2016) (citing
 9 *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000)). Courts calculate the
 10 lodestar figure by "multiplying the number of hours reasonably expended on a case by a
 11 reasonable hourly rate." *Id.*

12 After calculating the lodestar figure, a Court may reduce or increase the award based
 13 on a variety of factors. Those factors include: (1) the time and labor required, (2) the
 14 novelty and difficulty of the legal questions involved, (3) the skill required to perform the
 15 legal service properly, (4) other employment precluded due to acceptance of the case, (5)
 16 the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed
 17 by the client or the circumstances, (8) the amount involved and the results obtained, (9) the
 18 experience, reputation, and ability of the attorneys, (10) the 'undesirability' of the case,
 19 (11) the nature and length of the professional relationship with the client, and (12) awards
 20 in similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975) ("*Kerr*
 21 factors").¹ The lodestar calculation normally subsumes some of these factors such that the
 22 Court need not consider them again after determining the lodestar. *See Gonzalez v. City of*
 23 *Maywood*, 729 F.3d 1196, 1209 (9th Cir. 2013) (identifying factors often considered when
 24 calculating lodestar).

25 **A. Hourly Rates**

26 The first question is whether Plaintiffs' asserted rate is reasonable. "A reasonable

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 28 ¹ Local Rule 54.2 also lists factors the Court must address when determining the
 reasonableness of the requested award. These factors are largely duplicative of the *Kerr*
 factors.

1 hourly rate is ordinarily the prevailing market rate in the relevant community.” *Sw. Fair*
 2 *Hous. Council v. WG Scottsdale LLC*, 2022 WL 16715613 at *3 (D. Ariz. Nov. 4, 2022)
 3 (citing *Kelly*, 822 F.3d at 1099). And “the burden is on the fee applicant to produce
 4 satisfactory evidence—in addition to the attorney’s own affidavits—that the requested
 5 rates are in line with those prevailing in the community for similar services by lawyers of
 6 reasonably comparable skill, experience, and reputation.” *Blum v. Stenson*, 465 U.S. 886,
 7 895 n.11 (1984).

8 Plaintiff asserts an hourly rate of \$300 for attorney Ryan R. Janis of Jekielk & Janis.
 9 (Doc. 24-1 at 4). According to Janis’ declaration, he has been practicing law for over 15
 10 years and for 14 years his firm has litigated federal piracy claims on behalf of commercial
 11 pay-per-view distributors of major televised sporting events. (Doc. 24-1 at 2-3). Plaintiff
 12 contends its requested hourly rate of \$300 is well below the average hourly rate for
 13 attorneys with similar experience, according to a December 2022 edition of Arizona
 14 Attorney magazine. (Mot. at 2) (citing Carol Rose, *Arizona Lawyers Report on Economics*
 15 *of Practice*, 59 ARIZ. ATTN’Y, December 2022, at 15 (reporting an average hourly rate of
 16 \$340 for attorneys with 10 to 19 years of experience)). The Court finds Plaintiff’s
 17 requested hourly rate is reasonable.

18 **B. Hours Expended**

19 Under the lodestar method, the prevailing party is generally entitled to recover fees
 20 for “every item of service which, at the time rendered, would have been undertaken by a
 21 reasonable and prudent lawyer to advance or protect his client’s interest.” *Gary v. Carbon*
 22 *Cycle Ariz. LLC*, 398 F. Supp. 3d 468, 486 (D. Ariz. 2019) (quoting *Twin City Sportservice*
 23 *v. Charles O. Finley & Co.*, 676 F.2d 1291, 1313 (9th Cir. 1982)). Courts may “exclude
 24 from this initial fee calculation hours that were not reasonably expended.” *Hensley v.*
 25 *Eckerhart*, 461 U.S. 424, 433-34 (1983) (internal quotations removed); *see also McKown*
 26 *v. City of Fontana*, 565 F.3d 1097, 1102 (9th Cir. 2009) (“In determining the appropriate
 27 number of hours to be included in a lodestar calculation, the district court should exclude
 28 hours that are excessive, redundant, or otherwise unnecessary.”).

1 Plaintiff submits a log of time counsel expended on the present case with a total of
2 10.7 hours. (Doc. 24, Ex. A). Having carefully considered the time and labor reasonably
3 required for each task on Plaintiff's activity log, the Court finds each of the entries are
4 reasonable. The remaining *Kerr* factors, although not addressed by Plaintiff, do not
5 warrant adjustment of the lodestar figure. Thus, the Court will award attorneys' fees in the
6 sum of \$3,210.00.

7 **COSTS**

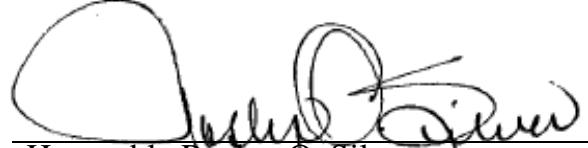
8 In addition to attorneys' fees, Plaintiff requests \$1,175.00 in costs consisting of
9 \$405.00 in filing fees and \$770.00 in service of process fees. (Mot. at 1-2; Ex. B). The
10 Court finds Plaintiff's requested out-of-pocket costs reasonable and will award Plaintiff
11 \$1,175.00 in costs.

12 Accordingly,

13 **IT IS ORDERED** Plaintiff's Motion for Attorneys' Fee (Doc. 24) is **GRANTED**.
14 The Court awards Plaintiff \$3,210.00 in attorneys' fees and \$1,175.00 in costs.

15 Dated this 6th day of June, 2025.

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Honorable Roslyn O. Silver
Senior United States District Judge